IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.2708 of 2003

Purshottam Ramchand Asrani.....Petitioner

Versus

State of Maharashtra & Anr.....Respondents

Mr.P.M.Havnur for Petitioner
Mr. Vinod Mahadik, for Respondents

CORAM: F.I. REBELLO & S.P.KUKDAY, JJ.
DATE : 4th May,2005

. Rule. Heard forthwith.

. It is the case of the petitioner that he is entitled to vacant possession of Final Plot No.64, Original Plot No.95 in view of the first variation in the Santacruz Town Planning Scheme No.V. This Court in its various judgments has taken the view that it is the duty of the Respondents to hand over the vacant plot to the petitioners after removing the encroachment. As there has been failure on the part of the Respondents the present reliefs as prayed for. On behalf of Respondents Vishnu P. Vidhate, Sub Engineer having his office at H/East Ward has filed an affidavit. In para.4(c) it is set out as under:-

> "I say that at present the final plot No.64 as well as adjacent plots are fully encroached. As a result of which, it is difficult to locate/demarcate the said plot. To remove the unauthorised and illegal structures from F.P. No.64, T.P.S.V., Santacruz, it is necessary to have demarcation of the said plot. In view of the aforesaid, the petitioner agrees to get the demarcation of the final plot NO.64 through the

City Survey Officer and after demarcation of the said plot, these respondents will take necessary action as per provisions of law for vacating the said plot to hand over the same to the petitioner."

In other words it is clear that the Respondents on affidavit have accepted the right of the petitioner to a plot free from encroachment. Considering the above, we direct the respondents to demarcate the plot, remove the encroachment and hand over the plot to the petitioner within 12 months from today.

. Rule made absolute accordingly. No order as to costs.

(F.I.REBELLO, J.)

(S.P. KUKDAY, J.)